

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA AIKEN DIVISION

ALEXANDER ORTIZ,	§	
Plaintiff,	§	
	§	
VS.	§	
	§	Civil Action No. 1:19-00878-MGL
	§	
MR. W. VAREEN, active warden, MR. C.	§	
NEVILS, captain, MS. S. BROADWATER,	§	
SHU L.T., MR. C. TOLBERT, SHU officer,	§	
MR. HAUCK, CMC, MR. WALLS, B-3 case	§	
manager, MS. BATTLE, health services	§	
administrator, DR. SWEETING, dentist,	§	
UNITED STATES OF AMERICA, and	§	
BUREAU OF PRISONS,	§	
Defendants.	§	
	§	

ORDER ADOPTING THE REPORT AND RECOMMENDATION AND DISMISSING PLAINTIFF'S COMPLAINT

Plaintiff Alexander Ortiz (Ortiz), proceeding pro se, filed this action under 42 U.S.C. § 1983 alleging violations of his constitutional rights. This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending Ortiz's complaint be dismissed with prejudice, in accordance with Federal Rule of Civil Procedure 41(b). The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the

Court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo

determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or

recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on December 16, 2019. On that same day, the Clerk

mailed a copy of the Report to Ortiz. On December 30, 2019, however, the Post Office returned

Ortiz's copy of the Report to the Clerk marked: "RETURN TO SENDER[.] NOT

DELIVERABLE AS ADDRESSED[.] UNABLE TO FORWARD[.]"

As such, Ortiz has neglected to file any objections to the Report. "[I]n the absence of a

timely filed objection, a district court need not conduct a de novo review, but instead must 'only

satisfy itself that there is no clear error on the face of the record in order to accept the

recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)

(quoting Fed. R. Civ. P. 72 advisory committee's note). Moreover, a failure to object waives

appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard

set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the

judgment of the Court Ortiz's complaint is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

Signed this 2nd day of April 2020 in Columbia, South Carolina.

s/ Mary Geiger Lewis

MARY GEIGER LEWIS

UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within sixty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.